

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

SIMPLEAIR, INC.

*Plaintiff,*

v.

GOOGLE INC., ET AL.

*Defendants.*

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Case No. 2:14-CV-00011-JRG

**ORDER**

The Court has considered and now approves and adopts the parties' joint proposal regarding the structure of the trial to take place as set forth in the parties' Joint Stipulation Regarding Bifurcation (Dkt. No. 289). Pursuant to such Stipulation, the Court **ORDERS** that:

1. The trial in this matter shall be conducted in two phases. In the first phase, the parties will try liability issues to a jury. The claims against both Google and YouTube will be presented in this same trial. In the second phase, the parties will try the issues of damages (as to both Defendants) and willfulness (as to Google) to the same jury that was seated for the first phase, if liability is found in the first phase. The second phase, if it proceeds, will immediately follow the first phase (subject to any recess called by the Court).

2. There will be only one jury selection and voir dire, prior to the beginning of the first phase. During voir dire the parties will be permitted to ask questions that are relevant to both the first and second phases of trial, but will not be permitted to ask questions referencing or related to the *SimpleAir Inc. v. Google Inc.*, Case No. 2:11-cv-00416-JRG litigation or the verdict in that case. The parties will further meet and confer to attempt to reach agreement on proposed jury instructions regarding the separate phasing of the trial. In this regard, a joint submission as to

proposed final jury instructions and a verdict form (for each phase of the trial) will be filed with the Court on or before October 1, 2015.


3. The parties have agreed that the trial time limits shall be cumulative of both phases and that the parties can use as much or as little of their allotted trial time in the first phase or the second phase as they deem prudent; however, each party will be limited to the total time limits set forth below.

Further, the Court has considered and sets the following time limits:

- Each side will have thirty (30) minutes for voir dire;
- Each side will have twenty (20) minutes for opening statements;
- Each side will have twelve (12) hours to present evidence; and
- Each side will have thirty (30) minutes for closing arguments.

The Court anticipates that each side will make an opening statement and closing argument in each phase of the trial. The time limits shall be cumulative of both phases, and the parties may allocate their allotted time between the first and second phases as desired. As used above, both Google and YouTube shall be deemed to be the Defendants' "side" of the case, and SimpleAir shall be deemed to be the Plaintiff's "side" of the case.

**So ORDERED and SIGNED this 25th day of September, 2015.**

  
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RODNEY GILSTRAP  
UNITED STATES DISTRICT JUDGE